

# **Chapter I. Introduction**

## **Land and Water Resource Management Plan Background**

In the mid-1990's, the Wisconsin Legislature was interested in redesigning the state's nonpoint source water pollution abatement programs in order to address certain program shortfalls and looming financial issues. In 1996, during the discussions among state agencies and the Wisconsin Land and Water Conservation Board, the Wisconsin Association of Land Conservation Employees (WALCE) proposed a locally led process based on County Land & Water Resource Management (LWRM) Plans. The proposal was that the state adopts minimum nonpoint pollution performance standards and each county describes how they will implement the standards through a LWRM plan. The implementation of these plans would be supported by a larger base allocation of grant funds to counties, rather than the previous competitive, and sometimes duplicative state grant processes, including the Priority Watershed Program (DNR) and the Soil and Water Resource Management Program (DATCP). The LWRM planning concept is based on the principle that local leaders and residents are best suited to identify and resolve local natural resource problems.

The WALCE proposal received support from state and federal conservation agencies, the Wisconsin Land and Water Conservation Board and state legislators, and the LWRM planning concept was subsequently signed into law as part of 1997 Wisconsin Act 27 (the 1997-1999 Biennial Budget Bill). 1997 Act 27 directed the Wisconsin Department of Natural Resources (DNR) to develop administrative rules that establish agricultural and non-agricultural performance standards to reduce nonpoint source pollution and meet water quality standards. The Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) was directed to update Administrative Rule ATCP 50 to prescribe the conservation practices to implement the DNR performance standards and to redefine the grant programs available to counties to carry out their new duties.

LWRM plans are intended to function as a local planning process that assesses natural resource conditions and needs, guides decisions on how to meet water quality goals and conservation objectives, measures progress towards meeting those goals, and makes efficient use of local, state and federal resources. The initial round of "prototype" LWRM plans began in 1998, including Waukesha County. The passage of 1999 Wisconsin Act 9 (the 1999-2001 Biennial Budget Bill) further amended state law by prescribing the minimum requirements of a LWRM plan, transferring county staffing grant funds from DNR to DATCP, and beginning the formal phase-out of the Priority Watershed Program. By 2002, all 72 counties had approved LWRM plans prepared by following a guidance document produced by a statewide work team. In October 2002, after a contentious 5-year rule making process, a series of administrative rules were finally promulgated by DATCP and DNR, implementing the requirements of 1997 Act 27 and 1999 Act 9. Most notable of this rule package were NR 151 (DNR), which contained the new agricultural and non-agricultural nonpoint pollution performance standards, and ATCP 50 (DATCP), which contained county LWRM planning and related grant requirements.

This plan is the second generation Land and Water Resource Management Plan for Waukesha County and is intended to be an update to the initial LWRM plan, adopted by the County Board in February 1999. The new plan has been prepared following the updated DATCP planning guidance document, based on the administrative rules promulgated in 2002. This plan is to be used as a guide for the Waukesha County Department of Parks and Land Use-Land Resources Division (LRD) and other local agencies that manage land and water resources in their efforts to protect them.

## Plan Requirements

The DATCP is statutorily responsible for approving LWRM plans. The Land and Water Conservation Board (LWCB) is responsible for reviewing LWRM plans and making recommendations about approval to the Department. In order to receive approval, a plan must address the following:

- Plan development and public participation;
- Assessment of water quality soil erosion conditions;
- Identification of applicable nonpoint source and soil erosion performance standards and prohibitions;
- Water quality objectives derived in consultation with the DNR;
- Conservation practices needed to address key water quality and soil erosion problems;
- A plan to identify priority producers and livestock operations in the county;
- Best management practices to achieve water quality objectives;
- Applicable performance standards and prohibitions related to the control of pollution from nonpoint sources;
- Use of state and local regulations to implement the county plan;
- Encouragement of voluntary implementation of conservation practices through county strategies;
- Procedures to ensure compliance with the nonpoint performance standards and prohibitions;
- A multi-year description of planned activities, including priorities and expected costs;
- A system to monitor the progress of activities described in the plan;
- Information and education related to soil and water resource management strategies;
- Coordination of activities described in the plan with programs of other local, state, and federal agencies;
- Notification of affected landowners and land users of findings about key problems and needed conservation practices;
- Public hearing and county board approval.

## Plan Development Process

The focus of the plan update was to identify and prioritize land and water resource issues of concern and to develop a strategy to address those concerns. In addition, goals, objectives, and activities intended to implement both agricultural and non-agricultural nonpoint performance standards were reviewed and revised as necessary.

Since the initial Waukesha County LWRM plan was adopted in 1999, considerable progress has been made in the development of the county Land Information System (LIS). Advancements in the quality and quantity of data available through the LIS were utilized as the plan update was prepared. The data was utilized for resource evaluation, devising a strategy for contacting landowners to determine compliance with state performance standards, and constructing a process for evaluating future progress on meeting plan goals and objectives.

The Department of Natural Resources was involved in the update of the Waukesha County Land and Water Resource Management Plan. Charles Krohn, the Regional Water Leader for the Department of Natural Resources, was initially invited to participate in the process or to suggest an appropriate designee. Since Waukesha County contains portions of three major drainage basins, it was thought most prudent to have one or two representatives from the DNR to serve as the designated contacts for the agency. As a result, Jim D'Antuono, Fox Basin Leader, and Marsha Burzynski, Water Resource Planner, were

designated as the initial contacts for the LWRM plan update process. They provided input at meetings and involved appropriate DNR staff in review of the draft plan. Through this input and review, the DNR helped identify resource issues of concern and set goals and objectives.

Additional input was sought from other agencies and parties responsible for land and water resource management activities in Waukesha County. In order to obtain broader input during the plan development process, two advisory committees were assembled, one with an urban focus and one with a more rural perspective. Combined, these two advisory groups consisted of representatives from farming interests, lake residents, developers, engineering firms, local government, and concerned citizens. These groups met to refine and discuss draft goals, objectives and activities necessary to address the issues raised as priority concerns through nominal group exercises conducted at advisory committee meetings. Advisory committee meetings were held on July 26, August 1, and October 24, 2005.

## **Public Input**

In addition to the input received from the members of the advisory committees, surveys conducted as part of the comprehensive development plan were utilized to shape the focus of the Land and Water Resource Management plan. A public hearing was held December 19, 2005 in the Waukesha County Administration Center. A copy of the public hearing announcement is found in Appendix C. Three people attended the public hearing. Comments received addressed the possibility of cost-share funding coming from local governments or nonprofit groups in addition to traditional state or federal cost-share programs. Another comment focused on the possibility of doing mass balance determinations on a watershed scale of nutrients, particularly phosphorus, which, when overly abundant, can have detrimental effects on water quality.

## **Relationship to Other Plans**

The Land and Water Resource Management Plan is meant to protect and improve the natural resources of Waukesha County through the activities of the Department of Parks and Land Use-Land Resources Division. However, other agencies, departments and initiatives also strive to meet those goals. Following is a list of other plans that relate to and will be coordinated with this plan, as described in others sections.

### **Comprehensive Development Plan for Waukesha County**

In 1999, the Wisconsin Legislature enacted a new comprehensive development planning initiative. Commonly referred to as “Smart Growth”, this initiative requires that comprehensive plans be completed and adopted by local governing bodies prior to January 1, 2010. In response to this law and the on-going need to update existing development plans, Waukesha County, the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and the University of Wisconsin-Extension (UWEX) have begun the process of preparing a coordinated, comprehensive development plan for Waukesha County. This plan will serve as an update to A Development Plan for Waukesha County Wisconsin (1996 - SEWRPC Community Assistance Planning Report No. 209) and meet the intent of the Smart Growth law. Utilizing the latest census data and new municipal boundary agreements, the comprehensive development planning process is intended to coordinate development planning between the 37 municipalities in the county, the SEWRPC and Waukesha County. The plan includes an analysis of population, economy, housing, land use, natural and cultural resources, transportation, community facilities and intergovernmental cooperation. To date, 27 municipalities have signed Cooperative Agreements to participate in the planning effort.

## Waukesha County Animal Waste Management Plan

Recognizing the need for increased efforts to control animal waste water pollution problems in Waukesha County, and in an effort to make cost-share assistance from the Wisconsin Farmers Fund available to farmers within the county, the Waukesha County Board requested the assistance of the Southeastern Wisconsin Regional Planning Commission in the preparation of an animal waste management plan. When the plan was finalized in 1987, the plan identified a total of 18 livestock operations as priority concerns. The Farmers Fund Program for cost-share assistance ended in the late 1980's. A recent evaluation of the 18 sites identified in the original plan indicates that: 4 sites have since been subdivided; 2 sites were addressed with the installation of complete barnyard runoff systems; 2 sites were partially implemented by the landowner without cost-sharing; 3 sites have removed all the livestock although the cropland is still farmed; and, 7 sites will be re-evaluated as part of the implementation of the agricultural performance standards implementation process detailed in Chapter V.

## Regional Water Quality Management Plans (208 Plans)

In 1974, the Southeastern Wisconsin Regional Planning Commission was designated as the water quality planning agency for southeastern Wisconsin pursuant to the terms of Section 208 of the Federal Water Pollution Control Act (P.L. 92-500) also known as the "Clean Water Act". In 1975, the SEWRPC initiated preparation of the Regional Water Quality Management Plan for Southeastern Wisconsin – 2000, which was formally adopted in 1979.

In 1995, the SEWRPC published an update and status report to the original regional water quality management plan. This report describes the implementation activities that had occurred since adoption of the original plan, identified progress on meeting the water quality objectives, and identified issues still needing to be addressed in the ongoing planning process. At the present time, an additional update to the regional water quality management plan is being prepared by SEWRPC in concert with the Milwaukee Metropolitan Sewerage District (MMSD) for watersheds draining to Lake Michigan. This includes the Menomonee and Root River watersheds in Waukesha County. It is anticipated that this study will be completed in 2007.

## Regional Water Supply Planning

As part of the development of a regional water supply planning program, the Southeastern Regional Planning Commission is in the process of conducting a regional water supply study for the Southeastern Wisconsin Region. This study represents a multi-partner planning effort and is the third and final element needed to conclude the water supply planning program. Using updated land use plans, the regional water supply plan will be based upon a design year of 2035. Specific components of the plan will include: development of water supply service areas and water use forecasts; recommendations for water conservation efforts; evaluations of alternative sources for supply; identification of groundwater recharge areas; specific recommendations for needed institutional structures to implement the plan, and; identification of constraints to development levels in subareas of the Region that may emanate from water supply sustainability concerns. It is expected that the plan will be complete by the end of 2006, with plan adoption occurring in 2007. Upon completion, suggested actions to be taken by the LRD will be incorporated into local work plans, as further described in Chapter IV.

## Regional Storm Water Management and Watershed Protection Plans

Many communities are investing in regional storm water management planning to coordinate new developments with existing storm water systems, plan for system upgrades or to satisfy state storm water discharge permit requirements. Storm water management planning by watershed rather than by individual parcel during the development process allows a community to consider the cumulative downstream impacts of land use and storm water management decisions prior to development. This type of up-front planning can also help coordinate activities between local units of government within the same watershed. Watershed protection planning takes this process a step further. This gets communities to work together toward a common goal of protecting a particular water resource by coordinating land use and storm water planning along with related program efforts within a watershed. Storm water planning by watershed is also used to determine options for reducing runoff pollution from existing development, which may be required to satisfy municipal storm water discharge permits under NR 216 Wis. Admin. Code. The LRD is currently involved in preparing a watershed protection plan for the Pebble Creek Watershed and will continue to coordinate activities with any other locally adopted regional storm water system plan or watershed protection plan.

## Basin Water Quality Management Plans

The Department of Natural Resources (DNR) also prepares areawide water quality management plans for drainage basins encompassing Waukesha County. Waukesha County contains portions of five major watershed basins: the Illinois Fox River, Milwaukee River, Root-Pike Rivers, and the Upper and Lower Rock River basins, as shown in Map II-10. During the preparation of the Waukesha County Land and Water Resource Management Plan, the most recent “State of the Basin” reports prepared by the DNR were reviewed and the recommendations incorporated as appropriate. In addition, the objectives and priorities of this plan were influenced by the basin plans and reviewed by DNR staff as part of their participation on the advisory committees.

## Priority Watershed Plans

Since 1979, the DNR has administered the Nonpoint Source Water Pollution Abatement Program, resulting in the preparation of Priority Watershed plans for several watersheds in Waukesha County. These include the Root River (1980), the Oconomowoc River (1986), the Menomonee River (1991), the Upper Fox River (1993) and the Muskego-Wind Lakes watersheds (1994). These plans identified resource issues of concern and recommended specific nonpoint source pollutant reduction goals by subwatershed. State grants for technical assistance and cost-share dollars were made available to encourage landowners to install conservation practices for water quality improvement. As of December 31, 2005, state funding for all of these watershed projects has ended. Additional information regarding these watersheds is provided in Chapters II and III of this plan.

## Lake Management Plans

Sixteen lake organizations in Waukesha County have organized lake districts under Chapter 33 of the Wisconsin Statutes. The largest lake in the county, Lake Pewaukee, has an active sanitary district. Many of the other lakes have active lake associations. Collectively these groups represent thousands of county residents who have a vested interest in protecting and improving water quality. Through grants made available through the DNR and other sources, many of these groups have prepared water quality management plans, aquatic plant management plans, lake protection and recreational use plans to address specific concerns on a particular water resource. Many of the activities identified in these plans complement activities identified in the Land and Water Resource Management Plan. During lake

management planning and implementation, LRD staff regularly provides technical information, educational services or other resources to the various lake organizations, especially related to storm water runoff.

## **Coordination With Other Agencies and Partners**

During the preparation of this plan, other agencies with a focus on natural resource protection were consulted and given the opportunity to comment on the content and focus of the plan. In particular the DNR was consulted on the priorities contained in the basin water quality management plans. The Natural Resources Conservation Service (NRCS) was also given the opportunity to provide their input. Presently the LRD and NRCS staff for Waukesha County are co-located in the Waukesha County Administration Center and have daily interaction on conservation related activities around the county. Through periodic meetings of the NRCS Local Work Group, the LRD and NRCS strive to develop a process for implementing needed conservation practices in a fiscally responsible manner by coordinating conservation related programming in a complementary fashion. At the time of plan preparation, the Farm Service Agency (FSA) office in Waukesha County was planning for possible closure with relocation of landowner records to adjacent counties. As a result, FSA input into this plan was limited. However, FSA remains an important part of the overall implementation strategy, particularly with regard to the Conservation Reserve Program (CRP) and the Conservation Reserve Enhancement Program (CREP).

## **Related Waukesha County Ordinances**

Chapter 14 and the Appendices of the Waukesha County Code of Ordinances contain the following ordinances related to management of land and water resources in Waukesha County. A complete copy of the following may be viewed at: <http://www.waukeshacounty.gov/cm/countyordinances/>.

### Storm Water Management and Erosion Control Ordinance

The Waukesha County Storm Water Management and Erosion Control Ordinance was most recently updated by the Waukesha County Board in March of 2005. The new version of the ordinance incorporated the standards of the Department of Natural Resources administrative rule NR 151 for non-agricultural runoff control. The purpose of the ordinance is to establish regulatory requirements for land development and land disturbing activities aimed to minimize the threats to public health, safety, welfare and the natural resources of Waukesha County from construction site erosion and post-construction storm water runoff. The LRD administers this ordinance in all unincorporated areas of the county.

### Nonmetallic Mining Reclamation Ordinance

The Waukesha County Nonmetallic Mining Reclamation ordinance was adopted in July of 2001. The ordinance is intended to establish effective standards for nonmetallic mine reclamation in accordance with uniform statewide standards under NR 135. The reclamation requirements are intended to rehabilitate nonmetallic mining sites, protect the environment and allow for other post-mining land uses. The LRD administers the ordinance in portions of the county and currently has 16 operations under permit. In addition, some local units of government have adopted their own ordinances based on the statewide model. The location of regulated sites and the communities that have adopted ordinances are shown on Map II-4.

### Animal Waste Management Ordinance

The Waukesha County Animal Waste Management Ordinance, initially adopted by the Waukesha County Board of Supervisors in 1987, regulates the design, construction, alteration, and use of animal waste storage facilities. A permit is required for design, construction, installation, reconstruction, enlarging, or substantially altering an animal waste storage facility. Facilities must be constructed in accordance with Natural Resource Conservation Service Technical Guide standards.

### Waukesha County Zoning Code

The Zoning Code applies to the Townships of Genesee, Oconomowoc, Ottawa and Vernon. The Code is designed to provide standards for land development to provide for adequate sanitation, drainage, safety, convenience of access, the preservation and promotion of the environment, property values and general attractiveness.

### Shoreland and Floodland Protection Ordinance

The Shoreland and Floodland Code generally applies to lands in unincorporated Townships and annexed lands within 1,000 feet of a lake and 300 feet of a river or stream. In addition to the objectives of the Zoning Code, this Code seeks to prevent water pollution and protect or improve the quality of lakes and streams. Most recently amended in August of 2003, this ordinance, along with the zoning code, is administered by the Department of Parks and Land Use- Planning and Zoning Division.

### **Plan Review and Approval**

Following the approval of the draft Land and Water Resource Management plan by the advisory committees on October 24, 2005, and the public hearing on December 19, 2005, the plan was presented to the Waukesha County Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors for their approval. In accordance with state law, this plan was also reviewed by the Wisconsin Land and Water Conservation Board and subsequently approved by the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP).